

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 5/22/2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,

-against-

JOSEPH PERCOCO,
a/k/a "Herb,"
ALAIN KALOYEROS,
a/k/a "Dr. K,"
PETER GALBRAITH KELLY, JR.,
a/k/a "Braith,"
STEVEN AIELLO,
JOSEPH GERARDI,
LOUIS CIMINELLI,
MICHAEL LAIPPLE, and
KEVIN SCHULER,

Defendants.
----- X

16-CR-776 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

Attached as Exhibit A to this order is the Court's proposed written juror questionnaire.

The Court will provide the parties with a word version of the proposed questionnaire via email.

IT IS HEREBY ORDERED that any proposed changes to the Court's proposed questionnaire are due by **5:00 p.m. on May 23, 2018**.

IT IS FURTHER ORDERED that if the Court determines that a conference is necessary to address the parties' comments to the proposed questionnaire, that conference will be in **Courtroom 318 at 3:00 p.m. on May 25, 2018**.

SO ORDERED.

Dated: May 22, 2018
New York, NY



VALERIE CAPRONI
United States District Judge

EXHIBIT A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

ALAIN KALOYEROS,
STEVEN AIELLO,
JOSEPH GERARDI,
LOUIS CIMINELLI, and
MICHAEL LAIPPLE,

Defendants.

S2 16-CR-776 (VEC)

JUROR QUESTIONNAIRE

JUROR NUMBER ____

PLEASE PRINT ALL ANSWERS LEGIBLY IN BLUE OR BLACK INK.

Introduction

The purpose of this questionnaire is to provide information to the Court and to the attorneys in this case so that they can determine whether you can serve as a fair and impartial juror in this case. You must give true, candid, and complete answers to every question. This is a criminal case, entitled United States of America versus Alain Kaloyeros, Steven Aiello, Joseph Gerardi, Louis Ciminelli, and Michael Laipple. The Defendants are charged with wire fraud and conspiracy to commit wire fraud in connection with Fort Schuyler Management Corporation's (commonly known as FSMC) selection of COR Development and LPCiminelli as "preferred developers" for construction projects in Syracuse and Buffalo, New York. FSMC is a not-for-profit real estate corporation affiliated with the State University of New York Polytechnic Institute (commonly known as SUNY Polytechnic Institute). Messrs. Aiello, Gerardi, Ciminelli,

JUROR NUMBER _____

Court Version – 5.22.2018

and Laipple are also charged with paying bribes to an individual named Todd Howe, who, the Government alleges, worked to rig the process for selecting preferred developers. Each defendant has pled not guilty, and each is presumed innocent unless and until proven guilty.

Do not discuss this questionnaire or your answers with anyone, including Court personnel and your fellow potential jurors. Please do not leave any questions unanswered. If you do not understand a question, write that on the questionnaire and we will discuss it with you later. There is an extra page at the back of the questionnaire if you need additional space for your answers. **Do not write on the back of any page of the questionnaire.**

Please write your juror number on the top of each page of the questionnaire. **Do not write your name on the questionnaire.**

There are no “right” or “wrong” answers; there are only truthful answers. You are sworn to give truthful answers, so you must provide full and accurate information in response to each question.

NOTE: **Do not do any research regarding this case.** That means you should not “look up” the case or anyone involved in the case on the Internet or in any other manner. **Do not discuss this case, this questionnaire, or your answers to the questions with anyone—not your fellow jurors, your family, your employer, or your friends.**

JUROR NUMBER _____

Court Version – 5.22.2018

Questions

1. The trial of this case may last up to six weeks. The jury will generally sit Mondays through Thursdays from approximately 9:30 am to 5:00 pm. The Court may occasionally sit on Fridays. The Court will not sit on Independence Day, Wednesday, July 4, 2018, or on July 5, 2018 or July 6, 2018. All jury service involves some degree of hardship. Would service as a juror on this case be a serious hardship for you?

☐ Yes☐ No

If yes, please explain why serving on the jury for this case would cause you a serious hardship:

Please note: In the event you are excused from service on this jury, you will not be excused from jury service in general. You will instead be required to report to the Court's Jury Clerk for placement on another panel for another case.

2. Do you have any pre-paid travel plans during June or July 2018?

☐ Yes☐ No

If yes, please describe your plans:

3. Do you have any personal commitments that would make it difficult for you to get to court by 9:15 am, every day of trial?

☐ Yes☐ No

If yes, please specify:

JUROR NUMBER _____

Court Version – 5.22.2018

4. Do you or does any member of your family or a close friend personally know or have past or present dealings with any of the following individuals?

a. Any of the defendants in this case or their family members?

Alain Kaloyeros	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Steven Aiello	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Joseph Gerardi	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Louis Ciminelli	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael Laipple	<input type="checkbox"/> Yes	<input type="checkbox"/> No

b. The U.S. Attorney for the Southern District of New York, Geoffrey S. Berman, or anyone else who works for or used to work for the U.S. Attorney's Office for the Southern District of New York?

☐ Yes ☐ No

c. Any of the Assistant United States Attorneys who are prosecuting this case:

Robert Boone	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Matthew Podolsky	<input type="checkbox"/> Yes	<input type="checkbox"/> No
David Zhou	<input type="checkbox"/> Yes	<input type="checkbox"/> No

d. Any of the defense attorneys or law firms who are representing the defendants:

Reid Weingarten of Steptoe & Johnson LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael C. Miller of Steptoe & Johnson LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Michael G. Scavelli of Steptoe & Johnson LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Stephen R. Coffey of O'Connell & Aronowitz	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Pamela A. Nichols of O'Connell & Aronowitz	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Scott W. Iseman of O'Connell & Aronowitz	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Avni P. Patel of Walden Macht & Harran LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Jacob S. Gardener of Walden Macht & Harran LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Milton L. Williams of Walden Macht & Harran LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Timothy W. Hoover of Hodgson Russ LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Jessica A. Masella of DLA Piper LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Paul L. Shechtman of Bracewell LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Herbert L. Greenman of Lipsitz Green Scime Cambria LLP	<input type="checkbox"/> Yes	<input type="checkbox"/> No

JUROR NUMBER _____

Court Version – 5.22.2018

- e. The United States District Court Judge who is presiding over this case, Valerie Caproni, or anyone who works on her staff?

☐ Yes☐ No

If you answered “yes” to any of the above sub-questions (4.a, 4.b, 4.c, 4.d, or 4.e), please explain whom you know, how you know the individual(s), and whether your relationship with that person might make it difficult for you to be a fair and impartial juror in this case:

5. Before today, had you read, seen, or heard anything about criminal charges being brought against Alain Kaloyeros, Steven Aiello, Joseph Gerardi, Louis Ciminelli, or Michael Laipple?

☐ Yes☐ No

If yes, from whom did you hear about the case (e.g., a friend, the newspaper, a website) and what do you remember?

JUROR NUMBER _____

Court Version – 5.22.2018

6. Do you have any personal knowledge of the facts underlying the accusations as they are described above?

☐ Yes

☐ No

If yes, please explain:

7. Based on anything that you have read, seen, or heard about this case, have you formed any opinion about any of the defendants that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes

☐ No

☐ Not applicable, I have not read/seen/heard about the case

If yes, please explain:

8. Based on anything you have read, seen or heard about this case, would you be able to follow the Court's instruction to put that information out of your mind and decide this case based only on the evidence presented at trial?

☐ Yes

☐ No

☐ Not applicable; I have heard nothing about this case.

If no, please explain:

JUROR NUMBER _____

Court Version – 5.22.2018

9. Have you followed the news about the trials of New York State political officials in recent years?

☐ Yes ☐ Yes, but not closely ☐ No

If yes, what do you remember?

10. If you answered yes to Number 9, do you have any strong feelings about those trials or about their outcomes that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes ☐ No / Not applicable

If yes, please explain:

11. Is there anything about the nature of this case and the accusations as summarized at the beginning of this questionnaire that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes ☐ No

If yes, please explain:

12. Do you have any strong opinions about government officials or anyone who works in state government that might make it difficult for you to be a fair and impartial juror in this case?

JUROR NUMBER _____

Court Version – 5.22.2018

☐ Yes

☐ No

If yes, please explain:

13. Have you or has any member of your family or a close friend ever worked for New York Governor Andrew Cuomo, for any member of the New York State Senate or Assembly, or for any New York State agency, department or public benefit corporation?

☐ Yes

☐ No

If yes, please identify who it was, what position or agency, and when:

14. Have you or has any member of your family or a close friend ever worked for any institution affiliated with the State University of New York (SUNY) system including, but not limited to, SUNY Polytechnic Institute in Albany?

☐ Yes

☐ No

If yes, please identify who, when, and for what institution the person worked:

15. Have you or has any member of your family or a close friend ever bid for a real estate development contract with a New York State agency, department or public benefit corporation?

☐ Yes

☐ No

If yes, please explain and state whether there was anything about your or their experience that might make it difficult for you to be a fair and impartial juror in this case:

JUROR NUMBER _____

Court Version – 5.22.2018

16. Do you or does any member of your family or a close friend have any experience lobbying the government (local, state, or federal)?

☐ Yes

☐ No

If yes, please explain and state whether there was anything about your or their experience that might make it difficult for you to be a fair and impartial juror in this case:

17. You may hear evidence in this case that certain defendants who do business with New York State made campaign contributions or held political fund raisers for political candidates. Do you have any strong feelings about individuals who do business with New York State also making campaign contributions that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes

☐ No

If yes, please explain:

18. Do you have any strong feelings about construction companies or the real estate industry that might make it difficult for you to be a fair and impartial juror in a case that involves individuals in construction and real estate businesses?

☐ Yes

☐ No

JUROR NUMBER _____

Court Version – 5.22.2018

If yes, please explain:

19. Do you have any opinion of the U.S. Attorney's Office for the Southern District of New York or the U.S. Attorney Geoffrey S. Berman that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes

☐ No

If yes, please explain:

20. Do you have any opinions about prosecutors or criminal defense attorneys generally that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes

☐ No

If yes, please explain:

21. Do you have any opinion about the criminal justice system generally or the federal criminal justice system in particular that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes

☐ No

If yes, please explain:

JUROR NUMBER _____

Court Version – 5.22.2018

22. At the end of the case the Judge will instruct you on the applicable legal principles and the elements of each offense charged. As a juror, you will be required to follow the Judge's instructions on the law. Even if you disagree with the wisdom of the law you may not substitute your own ideas of what the law is or what you think it should be. Do you believe you will be able to follow the law as the Judge explains it to you?

☐ Yes☐ No

If no, please explain:

23. You may hear evidence in this case from one or more individuals who were involved in the alleged crimes charged but agreed to cooperate with the government in exchange for not being charged or in hopes of leniency when sentenced or who were granted immunity and ordered to testify. Do you have any strong feelings about the use of such witnesses that might make it difficult for you to be a fair and impartial juror in this case?

☐ Yes☐ No

If yes, please explain:

24. Have you or any member of your family or a close friend ever worked for or had any personal interaction with any of the following companies?

COR Development

☐ Yes☐ No

LPCiminelli

☐ Yes☐ No

Fort Schuyler Management Corporation (FSMC)

☐ Yes☐ No

Whiteman Osterman and Hannah LLP

☐ Yes☐ No

JUROR NUMBER _____

Court Version – 5.22.2018

25. Have you or has any member of your family or a close friend ever had any dealings with any of the following individuals or entities:

[List to be provided]

If yes, please indicate whom you know and how you know him or her:

26. Have you or has any member of your family or a close friend ever practiced law?

☐ Yes

☐ No

If yes, please explain:

27. Have you or has any member of your family or a close friend ever brought a civil lawsuit or been a defendant in a civil lawsuit?

☐ Yes

☐ No

If yes, please explain:

28. Have you or has any member of your family or a close friend ever been the defendant in a criminal prosecution?

☐ Yes

☐ No

JUROR NUMBER _____

Court Version – 5.22.2018

If yes, please explain:

29. Have you or has any member of your family or a close friend ever been the victim of a crime or fraud?

☐ Yes

☐ No

If yes, please explain:

30. Have you or has any member of your family or a close friend ever testified as a witness in a deposition, in any sort of trial, or before a grand jury?

☐ Yes

☐ No

If yes, please explain:

31. Do you have any religious beliefs or ethical beliefs that would prevent you from passing judgment on another person?

☐ Yes

☐ No

If yes, please explain:

JUROR NUMBER _____

Court Version – 5.22.2018

32. Do you have any difficulty with your eyesight or hearing or have any medical or physical condition that would make it difficult for you to serve on a jury?

☐ Yes

☐ No

If yes, please explain:

33. Do you have any difficulty reading or understanding the English language?

☐ Yes

☐ No

I swear (or affirm) that all of the answers provided above are truthful.

Juror Number

Reminder: Do not write your name on this questionnaire.

DRAFT